

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
OCTOBER 10, 2013**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Jeffrey Cohen, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley

ABSENT: Donald Drouin

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #003-14 – CONTINUATION – Naomi Dogan and James West, for 4 Hayden Lane, seek a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises.

Mr. Colasante noted that, at the last hearing, the applicants requested a continuation to come up with a more definitive plan for the home occupation business. He asked what the applicants had done in the interim to answer some of the Board's questions.

Ms. Dogan handed out a page with photographs that showed how four cars could fit comfortably in the driveway, without any along the street. She also handed out a new letter to the Board, dated October 10, 2013 (see attached), which touched upon the ZBA's main concerns: parking, work hours and traffic, proximity to school, high traffic times of day, and screening/impact on neighborhood.

Mr. Colasante asked how long one appointment lasted. Ms. Dogan replied that each appointment was 45 minutes.

The Board members talked more about the hours of operation, and what hours they considered appropriate for this neighborhood. Ms. Dogan noted that they had created a weekly calendar that showed the times of day when appointments would and would not be held. She stated that the intent behind this schedule was to show that she would not be seeing clients during times that children would be walking to or from school.

Ms. Amick asked whether the applicant would relinquish her office at 200 Great Road if this Special Permit were granted. Ms. Dogan said that many therapists had two offices and she planned to keep two as well, at least for the foreseeable future.

Ms. Dogan said she wanted to address some of the comments made by one or two of the

neighbors who had had concerns about her clientele. She stressed that she was not running a psychiatric clinic, and her patients were high functioning people who led normal lives but simply needed help working through periods of difficulty. She added that her updated plan also involved even more screening for new patients than she currently did, and would have her seeing patients for at least three sessions at her 200 Great Road office before allowing them to see her at her house. Mr. Crowley stated that the kind of business wasn't even a consideration for him, and the sole reason for his concerns were the traffic and density of the neighborhood.

Mr. Colasante said that, in the interest of minimizing the impact on the neighborhood, he would suggest a condition on the Special Permit limiting the amount of clients per day to four or five. Ms. Dogan said that no more than five clients per day would be a reasonable condition.

Mr. Cohen said he didn't feel that this property was comparable to the four other home occupation businesses that the applicants mentioned in their letter to the Board, because those homes were in neighborhoods much better suited to a home office business. He noted that three of those four businesses do not have Special Permits, so the Code Enforcement Director would most likely have to send them letters requiring them to appear before the ZBA.

Ms. Puntillo said she appreciated that the applicants have tried to work around the hours of school start and end times, but that still didn't take into account kids playing after school. Mr. West replied that there wasn't much room on Hayden Lane for kids to play, so he didn't feel that it was too much of a concern. Mr. Cohen agreed with Mr. West, noting that the street wasn't very conducive to playing.

Ms. Dogan pointed out that she had spoken with Adrienne St. John, the Town Engineer, who had said she would add at least one more visibility sign on the street, which should help with the traffic as well.

Mr. Colasante opened the hearing to the public.

Mr. Colasante read into the record a letter from Abby Hafer (see attachment).

Mr. Colasante read into the record a letter from Gennady Linaster, signed and dated October 6, 2013 (see attachment).

Mr. Colasante read into the record a letter from Susan McCombs, signed and dated October 9, 2013 (see attachment).

Mr. Colasante read into the record a letter from Irene Gravina (see attachment).

Mr. Colasante read into the record a letter from Zou Ling Xing (see attachment).

Mr. Colasante read into the record a letter from James and Ann Clasby, signed and dated October 9, 2013 (see attachment).

Mr. Colasante also noted that the Board was in receipt of two email chains between Ms. Dogan and Ms. St. John.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and the two conditions required of a Special Permit were that the application was not detrimental or injurious to the neighborhood and was in keeping with the intent and purpose of the By-Law. He said that many of his concerns from the last meeting have been addressed, and he would be comfortable granting a Special Permit with specific conditions. Mr. Dearing agreed, noting that he'd had many concerns about the application as originally presented at the first meeting, but he felt that the applicants had addressed the Board's concerns.

Mr. Cohen thanked the applicants for being forthright and for going through the proper process for this use; he also thanked them for taking the time and effort into a follow-up letter that addressed some of the Board's concerns. He said that, despite the applicants' efforts to address the Board's concerns, he was still quite worried about allowing a home occupation business into this particular neighborhood. He commented that the street was dark, with no sidewalks, and a great deal of foot traffic, including school children, so he still felt very uncomfortable about voting in favor of this application.

Mr. Colasante said he felt much more comfortable about this revised application than he did about the original one, and he could support the Special Permit with the conditions laid out in the applicants' new letter.

There was extensive conversation about the pros and cons of allowing this business in this neighborhood.

Mr. Crowley stated that he was still back and forth on whether to grant this Special Permit. He said that the applicants' efforts to alleviate some of the Board's concerns have helped, but he still wasn't entirely comfortable granting such a use in this particular neighborhood.

Ms. Puntillo said that this neighborhood was an extremely difficult location for this type of proposal. She said she wanted to support small businesses like this one and help the applicants, especially after they had put so much time and effort into addressing the Board's issues, but she also felt that this area might not be conducive to such a business.

Mr. Colasante said that it seemed unclear how the Board would vote tonight. He explained to the applicants that, if the petition were denied, the applicants would not be

able to come back to the Board with the same proposal for two years. He asked whether they wanted to have the Board vote tonight, continue the hearing, or withdraw their petition. After further discussion about the applicants' options and how they wanted to proceed, Ms. Dogan asked for a continuation to one of the January hearings.

Mr. Colasante called for a motion to continue the hearing.

MOTION:

Ms. Amick moved to continue Naomi Dogan and James West, for 4 Hayden Lane, seeking a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises to January 9, 2014 at 7:30 PM.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #008-14 – Greg Halloran, at 7 Hume Road, seeks a Variance per Sections 6.2.7, 6.2.8, and 14.7 of the Zoning By-Law to allow accessory shed within side and rear yard setbacks.

Mr. Halloran introduced himself and explained that he just recently moved to Bedford, and one of the first things he wanted to do at his new property was install a shed. He noted that the previous owner informed him that small concrete block at the rear of the property used to have a shed atop it, and Mr. Halloran said he would like to place his new shed there as well. He showed photographs of the lot and explained that, based on the shape of the lot and its extreme slope, this was the only place a shed could be placed, but it was within the ten foot rear yard setback so he needed zoning relief.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said that, in his opinion, this petition could be a Special Permit application rather than a Variance. He said that it was his understanding that the Building Inspector thought this should be a Variance because the shed created a new non-conformity on the lot, but Mr. Colasante felt that since the entire lot was non-conforming this could be a Special Permit. He asked the other Board members how they wanted to proceed. All of the members felt comfortable granting a Special Permit, but Mr. Cohen noted that it

might be best, from an administrative perspective, to grant the application the way it was advertised; he said he felt the application could pass either way.

Mr. Colasante stated that the Board should go through the pieces of the Variance puzzle to determine whether every condition was met.

- *A particular use must be sought.* Mr. Colasante said that the project meets that portion of the puzzle.
- *The use must be for one not requiring a Special Permit.* Mr. Colasante said it was the Building Inspector's determination that this needed a Variance rather than a Special Permit, and he was comfortable with that determination because of the new non-conformity being created.
- *Particular parcel or existing building.* Mr. Colasante said that was obvious here.
- *Conditions affecting particular parcel or existing building.* Mr. Cohen pointed out that the simple fact of a street running through part of the property made this particular parcel unique.
- *Without detriment to the public good.* The Board members agreed that it was without detriment to the public good.
- *No derogation from intent or purpose of the By-Law or ordinance.* The Board also agreed that this was true.
- *A substantial hardship, financial or otherwise.* Mr. Cohen stated that there was certainly a topographic hardship on this lot, since there was such a severe slope. Mr. Colasante stated that if the applicant were to place the shed anywhere else on the lot, it would be a considerable financial hardship as well.

Mr. Colasante said that the Variance puzzle had been addressed and all seven items had passed, so he felt that the Board was ready for a motion.

MOTION:

Ms. Amick moved to grant Greg Halloran, at 7 Hume Road, a Variance per Sections 6.2.7, 6.2.8, and 14.7 of the Zoning By-Law to allow accessory shed within side yard setback, substantially as shown on Exhibits A, B, and C.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write its decision, after which time there is a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

BUSINESS MEETING:

Adjournment

Ms. Amick moved to adjourn the meeting

Mr. Cohen seconded the motion.

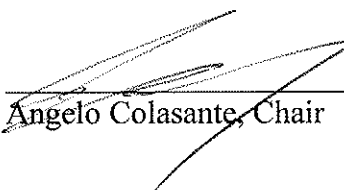
Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

The meeting adjourned at 9:45 PM.



Angelo Colasante, Chair

1-2-14

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant